

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

HEARTS ON FIRE COMPANY, LLC,

Plaintiff,

v.

EIGHTSTAR DIAMOND COMPANY,

Defendant.

CIVIL ACTION NO. 04-12258-JLT

**JOINT STIPULATION REGARDING MOTION TO  
DISMISS COUNTERCLAIMS AND RELATED PLEADINGS**

Plaintiff Hearts On Fire Company, LLC (“HOF”) and Defendant EightStar Diamond Company (“EightStar) hereby agree that their respective pleadings in connection with HOF’s Motion to Dismiss Counterclaims shall be applied to the Counterclaims that EightStar has refiled in response to the Amended Complaint.

This agreement is intended to both conserve resources and the Court’s time, as it will be unnecessary to refile duplicative papers on this matter. Specifically, those pending papers that the parties wish to continue to rely upon include the following:

- a. HOF’s Motion to Dismiss Counterclaims [Documents # 12&13];
- b. EightStar’s Opposition to Motion to Dismiss [Document # 16];
- c. HOF’s Unopposed Motion For Leave to Submit Reply Brief in Further Support of its Motion to Dismiss Counterclaims [Document # 18];
- d. HOF’s Reply to EightStar’s Opposition to Motion to Dismiss [Document #23];

- e. EightStar's Motion for Leave to Submit Surreply to Motion to Dismiss Counterclaims [Document # 19];
- f. HOF's Opposition to Defendant's Motion for Leave to Submit Surreply [Document # 20]; and
- g. EightStar's Sur-Reply [Exhibit 1 to Document # 19]

WHEREFORE, based on the foregoing, the undersigned parties hereby stipulate that they rely upon the above pending pleadings in order to resolve HOF's pending Motion to Dismiss EightStar's Counterclaims.

HEARTS ON FIRE COMPANY, LLC

By its attorneys,

/s/ Mark D. Robins

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EIGHTSTAR DIAMOND COMPANY

By its attorneys,

/s/ Adele Conover

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Dated: May 26, 2005